

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Robert E. Fackler,

Plaintiff,

Civil Action No. _____

v.

Internal Revenue Service,

COMPLAINT

Defendant.

COMES NOW the Plaintiff, and for his claim for relief against the Defendant states and avers:

THE PARTIES

1. Plaintiff, Robert E. Fackler, is an individual with legal residence at 330 Zircon Lane, Plymouth, MN 55447.

2. This civil action arises under 5 U.S.C. §552 and 5 U.S.C §552a. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1346 and 5 U.S.C. §552(a)(4)(B). Venue is proper in this district pursuant to 28 U.S.C. §1402 and 5 U.S.C. § 552(a)(4)(B).

3. Plaintiff is a person and Defendant Internal Revenue Service is an agency of the United States of America, within the meaning of 5 U.S.C. §552(f).

THE CLAIMS FOR RELIEF

4. Pursuant to the Freedom of Information Act, 5 U.S.C. §552, and the Privacy Act, 5 U.S.C. §552a, on October 31, 2012, Plaintiff properly filed a request for disclosure of information contained in administrative and investigative files pertaining to his 2008 through 2011 federal income taxes, including but not limited to all tax returns,

revenue agent's work papers, transmittal slips, revenue agents reports, case activity work papers, and any files, records, correspondence, memoranda, or other documents regarding any proposals, recommendations, referrals, or other actions or suggested actions relating to the examination or investigation of its 2008 through 2011 federal income tax returns. A redacted copy of the request is attached as Exhibit 1. The Defendant received this request on November 5, 2012.

5. On December 3, 2012, Defendant notified Plaintiff's counsel of the unavailability of a response and stating that the records would be furnished by January 6, 2013 in the attached letter (Exhibit 2).

6. Defendant has failed to produce the records or give any explanation to Plaintiff of the reason why it will not comply with the duties imposed on it by statute.

7. Defendant's failure to respond with the requested records and to articulate any factual basis for denying production of the records violates the Freedom of Information Act, as amended.

8. Plaintiff has exhausted administrative remedies to obtain the requested data and Defendant's failure to disclose the contents of Plaintiff's 2008 through 2011 income tax administrative and investigative files is not privileged or exempted from disclosure and violates the Freedom of Information Act, as amended.

9. Plaintiff is entitled to complete disclosure of the 2008 through 2011 federal income tax administrative and investigative files pursuant to the Privacy Act and Freedom of Information Act, as amended.

10. Plaintiff is entitled to reasonable attorney's fees and costs of maintaining this action pursuant to 5 U.S.C. §552(a)(4)(E).

WHEREFORE, Plaintiff prays for judgment and for an order as follows:

A. That Defendant and its officers, employees and representatives disclose to plaintiff of each and every document heretofore withheld from plaintiff which were requested by Plaintiff from its 2008 through 2011 federal income tax administrative and investigative files.

B. That Defendant's be ordered to provide an index containing the information set forth in paragraph 11 herein, and promptly furnish the same to Plaintiff.

C. That Defendant pay Plaintiff's reasonable attorney's fees and litigation costs pursuant to 5 U.S.C. §552(a)(4)(E).

D. For such other and further relief as may be just and equitable in the circumstances.

Attorneys for Plaintiff
Foster & Brever, PLLC

Dated: January 9, 2013

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